

**TOWN OF CECILTON  
PLANNING COMMISSION REGULAR MEETING  
Tuesday, August 12, 2008**

The Planning Commission held a meeting at Town Hall on Tuesday, August 12, 2008. The following were in attendance:

Paul Obenshain, Acting Chair  
Kristie Midash, Member  
Helen Zdrojewski, Member

Absent:  
Linda Mooreland, Chair  
Sonia Wright, Member

Call to Order at 7:00 p.m.

**REVIEW AND ACT:**

**Tuesday, July 29, 2008 Regular Meeting Minutes:**

Kristie Midash made a motion to approve the Tuesday, July 29, 2008 Regular Meeting minutes as written.  
Helen Zdrojewski seconded the motion.  
The motion carried.

**PROPERTY ACTIVITY REPORT:**

Kristie Midash made a motion to accept the Property Activity Report as presented.  
Helen Zdrojewski seconded the motion.  
The motion carried.

**FIFTY-FIVE PLUS:**

Brian Morgan from KCI Technologies introduced himself as the planners and engineers and landscape architects working on the Fifty-Five Plus project. He explained that the sub-division is a fifty -five and over community, 42 units with a community center. He went on to point out, on the plans on the table before the commission, the different locations of the units, roads, community center, etc.  
Chris Rogers from URS explained that this presentation is the final plat and just a record of the subdivision. Member Zdrojewski asked if the ponds would be fenced. Mr. Morgan replied that they would be fenced. Brian Morgan went on to say that erosion sediment control plans have been approved as well as storm water management plans. Road construction plans are under review by URS, the landscape plan will be re- submitted this week and the utility plans have been approved as well by URS, and the forest conservation plan still needs to be resolved. Member Midash asked about the gray areas on the plan and parking accommodations. Chris Rogers explained that what is required are 2 spaces per unit counting the garage and the driveway. Member Midash asked member Obenshain, "What are they asking for?" He went on to explain that they (Fifty-Five Plus) are asking for 42 water/sewer hook-ups. He said that URS has reviewed the plans as far as the current town ordinances being in effect. Re: Planning and Zoning Ordinances, offsets, etc. He said that what they are seeking at this point was tentative approval with contingencies. Chris Rogers went over the letter dated August 12, 2008 (attached) of suggested contingencies prepared by URS. Under #1, he explained that the parcel was re-zoned to a PUD by the Mayor and Council in January of 2007 and the rezoning will become finalized once

the Final Plat is recorded. The Mayor and Council approved the PUD with several conditions. The conditions are: (a.) There shall be a 24- foot wide roadway along Rickard's Street from the entrance of the proposed development to Water Street. (b) The applicant agreed to spend up to \$250,000 to upgrade the Church Street pump station and/ or to fix I&I (infiltration and inflow) of the sewers along Douglas Street. Mr. Rogers said that those improvements should be made part of the Public Works Agreement. Mr. Rogers explained that it was not a capacity issue with Church Street, but that the pump station was just old and in need of mechanical and electrical upgrades. (c). All landscaping must be planted prior to issuing a certificate of occupancy. (d) There shall be no Home Owners Association established for the maintenance of the common open space, storm water areas, or community center. These areas are to be dedicated to and accepted by the Town.

Paragraph #2, lists all of the approvals that need to be granted before the Town Chairperson of the Planning Commission signs off on the final plat approval.

Paragraph # 3A, speaks to the need for a PWA and also points out that the PWA should include the improvements to the Church Street Pump Station and/or the Douglas Street sewer repair as mentioned before. If the \$250,000 could be stretched enough the Town would like to repair the sewer on Douglas Street due to old clay pipes that have cracked over time.

Paragraph #3B, a landscape agreement will specify that the plantings will be done prior to any certificate of occupancy being issued.

Member Midash asked if the Pump Station and the Douglas Street sewer repair were guaranteed to be completed under the \$250,000 limit. Chris Rogers explained that Fifty-Five Plus committed up to but not to exceed \$250,000.

Paragraph # 4, outlines the Open Space requirements of the Town zoning ordinance relative to a PUD. Mr. Rogers explained that the developer has met the 30% requirement that states 30% of the gross tract shall be open space designated for use in common by all residents. URS is just waiting to review the plans for the remaining 70% of the Open Space that has to be developed for active and passive recreation.

Paragraph #5, states that any open space and open space improvements including stormwater management areas are to be dedicated to the Town. Mr. Rogers said there has been some discussion with the developer as to perhaps maintaining some measure of control over the Community Center building. He said those details still need to be worked out. Member Midash asked how long the developer wanted to maintain that control. The builder replied that they wanted to make sure that they avoided situations and or conflict that could occur, such as making sure that all the residents of the Town have access to the Center and that no one could be locked out of the building. Member Midash asked if that issue is something the Commission should be addressing now or in the future. She went on to say that if there is no HOA then the Town will assume the obligation of taking over the maintenance and cost of everything that is turned over to the Town. Mr. Morgan replied that he would like to see the Town suggest a resolution to the problem so that the developer does not have to deal with complaints. Member Midash asked if anyone had any ideas as to how to work out the fact that those 42 residents could have control over property that belonged to the Town.

Member Obenshain said that this is a very important issue. He went on to say, as he was looking over the plat, that there was a large amount of maintenance intensive public space being projected to be turned over to the Town. He pointed out the fact that the building that now houses Town Hall was donated to the Town but has become very costly to maintain. He was concerned about maintaining the Community Center. He went on to explain that in a legal environment, if the building is turned over to the Town, then that building must be available to all, the same as the Town Park. He said it would be illegal to age discriminate or to say only the people within the Town would have access to the building. He said, on the other hand, the Town is opposed to a HOA due to the fact that most of them are defunct within 5 years and to avoid having a 'Town within a Town'. Mr. Obenshain said he felt that the Commission needed to have some estimates as to what all this will cost the Town as far as maintenance etc.

Mr. Rogers said that the role of the Planning Commission was to make sure that appropriate open space and open space amenities are being provided in this development.

Member Midash said that before the Commission says "yes" they feel they have to take into consideration the fact that they should not encumber the Town with their decision on a cost basis of keeping up buildings. She

said it was beyond the Commission's scope as to the use of the building. She said that has to go before the Mayor and Council.

Mr. Morgan said he wanted to point out the fact that they are not requesting any change to the rezoning application or to deviate from what was required.

Chris Rogers said he just wanted to make the Commission aware that discussions have been initiated but no official request has been made to have a HOA or to have a Right of First Refusal on behalf of the developer. He said the ultimate decision on the building will be with the Town Council, however the role of the Planning Commission is to make sure there is enough Open Space and Open Space amenities for the residents who will be residing in the POD.

Member Obenshain expressed his concern that the Council may have difficulty in projecting the cost to the Town of taking over these areas in discussion this evening.

Mr. Stanley addressed the Commission to explain that originally Mayor Bunnell said that the Town was considering building a community center on the Town property in 2009-2010. He said the Mayor approached him with the possibility that the Town not build that community center but incorporate it into the Fifty-Five Plus design. Mr. Stanley said after he spoke with his appraiser and people that had more experience with the 55 plus communities that they directed him that he should definitely keep that building for those specific residents because that is one of the amenities that appeal to them.

Chris Rogers went on to explain Paragraph #6. He said it was the same issue as last time and that URS or the Planning Commission Chair should not sign the final plat until the WWTP has stated it has "capacity". It was announced that that should occur at the end of August 2008.

Paragraph #7 The Town Development Design Standards state that the Planning Commission prior to receiving a building permit should approve building elevations.

Paragraph #8 Lot requirements in the Development Plan. Chris Rogers explained that a PUD allows for flexibility in set backs and lot sizes. He explained that he simply wanted the bulleted items to be shown properly on the final plat.

Paragraph # 9 .7 acres of off-site afforestation are needed for compliance with the Forest Conservation Regulations. They are working to see if there is additional area in the Town Park for the afforestation.

Paragraph #10 it was explained that the Town Council must approve any off-site easements.

Paragraph #11 Concrete monuments are required per the Town's sub-division regulations. URS is working with the developer to get them properly placed on the plat.

Paragraph #12 the proposed Rickard's street paving must be discussed with the Town Council as far as how thick the base is and how thick the paving needs to be. URS is recommending that the road be considered a minor collector, which has a thicker base and a thicker paving section.

Paragraph #13 the applicant should confirm that no additional right-of-way is needed for the initial extension of Rickard's Street. Chris Rogers asked if they had appropriate right-of-way where Rickard's Street is being extended. Brian Morgan replied that the paving section, itself, falls entirely within the additional right-of-way dedication that they are providing as well as the prescriptive easement that the Town has. He went on to say that the request by the Town for the sidewalk, in the initial meeting, it was stated that Fifty-Five Plus would take the burden of constructing that sidewalk as part of the improvements, but additional right-of-way dedication, they would rely on the Town for acquisition purposes. There was a discussion as to what belonged to the individual property owner and what was part of the prescriptive easement.

Mr. Obenshain said that this is something that the Town attorney would have to resolve. He went on to say that this is leading to something that the Planning and Zoning Commission are not in the position to address.

Paragraph #14 the County Public Works signature block should be changed to the Town Engineer.

Member Obenshain reiterated that this PUD was for age 55 and older. Mr. Morgan confirmed that to be the case. Member Midash asked if there was to be a deed restriction for 55 and older. Mr. Morgan replied that would be in accordance with Federal requirements. Member Obenshain had concerns as to how to enforce the requirements in the deed restrictions. Mr. Morgan replied that would be enforced by covenants and restrictions. Citizen Ken Simmons was in attendance and said this was the first time he has encountered a 55 plus community when a HOA was not permitted. He said as he was thinking about the situation, it was clear that the HOA was responsible for enforcing restrictions. Mr. Morgan said he misspoke and corrected himself to say it

would be enforced in deed restrictions. Mr. Simmons then asked who enforced the deed restrictions? Mr. Morgan said that was discussed with the Mayor and Council. He said they were willing to assume the responsibility of meeting the requirements of every 2 years taking a survey of all the community residents to insure that one resident in each household or 80% of the unit was age 55 or older. Kristy Midash asked what would happen if they were not in compliance? Mr. Morgan replied that would be an unfortunate issue. Helen Zdrojewski said they would be forced to sell the property.

Mr. Morgan explained there are 2 types of age-restricted communities. They choose the one where 80% of the units have to be occupied (not owned) by at least one person aged 55 years or older. The second type of community is one where you have to be 100% age 62 or older. Both types of communities are consistent with the Fair Housing Act.

Member Obenshain asked the Town Administrator if either of the Town's attorneys have given any opinion on how to make sure this remains a 55 plus community. The Town Administrator replied that the only thing the Town has received is the opinion Keith Baynes sent on 01/16/07 (attached). Member Obenshain said that he felt that consulting with the attorney should be the next step to be taken.

Mr. Obenshain then went on to say he saw three things that needed to be addressed in more detail. Issue # 1. What would be the cost to the Town when the Open Space and the Community Building is turned over to the Town? Issue # 2. What should the Town do about the easement needed for the sidewalk? He said that should go to the Mayor and Council for a decision. Issue # 3. The restrictions and enforceability of the age 55 and over. He felt all three contingencies should go before the Town attorney.

Member Midash said that she had an issue with the amount of parking allocated on the plat. She wanted to know if any of the designated open space could be reallocated for additional parking. She voiced concern about the parking of guests since it is not permitted to park on the street. Mr. Morgan said he did have recent experience with the issue of allocating open space for additional parking, and that it was permitted. He went on to explain that was a decision that particular municipality made at that time. He said he agreed that the homeowners would have guests, but felt that the likelihood of two or three additional cars for guests, in these units was less than what you would see in a place like Frisby's Meadows, for example.

Chris Rogers said that you could have parking in open space as long as it is addressed in storm water management and drainage plans.

Mr. Morgan also said because of the lack of a HOA, it could become an issue as to who is going to maintain that parking area if it is in an open space area.

Chris Rogers said if the Commission felt strongly about the overflow parking, the Commission could make that a condition of approval and specify how many spaces they wanted to include. At that point URS would work the parking situations out with all the conversation regarding the HOA.

Mr. Morgan said that the only thing that concerned him at this point, was that they are now at final plat approval and have done extensive work and expense in engineering, and the number of uncertainties at this point should be kept to a minimum if possible.

Member Midash said she certainly did understand Mr. Morgan's position and she was not in any way trying to incur additional cost to the project. She said she did not necessarily want to make the parking a condition, but felt that in the future it should be a concern to be addressed.

Member Midash made a motion to accept the plat as stated with 42 units providing the Town Council shall address the issues of the Community Building and the sidewalk issue and that the restrictions on the age 55 plus situation be addressed, oked, and accepted by the Town Council, that they (Town Council) are going to be able to perform such a feat. Also that the URS recommendations and guidelines to the preliminary be met and the conditions be met in the attorney letter dated 01/16/07 (attached), and to cover the guidelines for the 55 plus rezoning decision. Member Zdrojewski seconded the motion. The motion carried.

## **COMPREHENSIVE PLAN:**

Chris Rogers said due to the lateness of the evening he would be willing to defer the discussion of the Comprehensive Plan until the next meeting. Member Obenshain asked how long the discussion would take and Mr. Rogers replied that there were several important areas he wished to review. Member Midash asked if Mr.

Rogers could go over his main points so that the Commission could do their research and be prepared to discuss those items at the next meeting. Mr. Rogers said that the issue is the extent of the Town's growth area. He went on to say that URS has presented four different alternatives on the growth areas and how those different growth areas interact with the Agro/Business district. He said there has been a lot of discussion and concern about the sustainability of this Agro/Business district. He said that he felt that perhaps the Commission should not be concentrating so much on whether the Agro Business can sustain wineries, fruit stands and restaurants, etc but instead concentrate on the appropriateness of the growth area. He said he felt the discussions have lost focus on how far out the Town wants to grow. Mr. Rogers asked the Commission to consider the limits of the 4 growth areas presented before them. He asked the Commission to decide what plan they are most comfortable with so that they can begin to put words to a plan. Member Midash asked what is the benefit to the Town to have the Agro/Business zoning? Mr. Rogers said that he felt the "up-side" of the zoning was that it allowed for resource based commercial uses. He also went on to say that it would provide a permanent green belt and limit the size of the Town based on the decisions of the Commission and what plan they chose.

**GOOD OF THE ORDER:**

No Comment

**ADJOURN:**